

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO. 541 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 373 OF 2015

Trusted Trading Private Limited

.....Petitioner/ Transferor Company.

In the matter of the Companies Act,
1956/2013

AND

In the matter of application under Sections
391 to 394 of the Companies Act, 1956

AND

In the matter of Trusted Trading Private
Limited, a company incorporated under the
provisions of the Companies Act, 1956;

AND

In the matter of scheme of amalgamation
of

Trusted Trading Private Limited

With

Shah And Sanghavi Properties Private
Limited

Called for Hearing

Mr. Naserali Rizvi i/b Thakore Jariwala & Associates, Advocates for Petitioner.

Y.R. Mishra i/b. Mr. A.A. Ansari for Regional Director in the Petition.

Mr. S. Ramakantha, Official Liquidator, present.

CORAM: K. R. SHRIRAM, J.

DATE: 18th December, 2015

PC:

1. Heard learned Advocate for Petitioner. No objector has come to oppose the Scheme nor any party has controverted any averments made in the Petition.
2. The sanction of the Court is sought under Sections 391 to 394 of the Companies Act, 1956 to an arrangement embodied in the Scheme of Amalgamation of Trusted Trading Private Limited With Shah And Sanghavi Properties Private Limited.
3. The learned Advocate for the Petitioner Company states that the Transferor Company and the Transferee Company are presently are engaged into investment activity only.
4. The learned Advocate for the Petitioner Companies further states that the Scheme of amalgamation will enable to achieve integration of the business operations, strategic flexibility and a scale to pursue growth opportunities. Further the combined entity will be able to showcase strength and there will also be synergy benefits through combined operations. It will also result in cost efficiencies and will lead to more efficient and economical control and conduct of the affairs.
5. The learned Advocate appearing on behalf of the Petitioner Company submits that by an order passed by this court on 8th May, 2015 in Company Summons for Direction No. 373 of 2015, the filing of a separate Company Summons for Direction and Company Scheme Petition in relation to the proposed Scheme by Shah And Sanghavi Properties Private Limited, the Transferee Company has

been dispensed with as the Transferor Company is wholly owned subsidiary of the Transferee Company and no new shares will be issued and that there will be no change in the capital structure of the Transferee company and that the scheme will not adversely affect the rights of members or creditors of the Transferee Company and in view of the judgment of this court in *Mahaamba Investment Limited v/s IDI Limited* (2001) Company Cases 105.

6. The Petitioner/Transferor Company and the Transferee Company have approved the said Scheme of Amalgamation by passing the Board Resolutions which is annexed to the respective Company Scheme Petition.
7. The learned Advocate for the Petitioner states that the Petitioner Company has complied with all the directions passed in Company Summons for Direction and that the Company Scheme Petition have been filed in consonance with the orders passed in respective Company Summons for Direction and seeks sanction to the said proposed Scheme of Amalgamation.
8. The Learned Advocate appearing on behalf of the Petitioner has stated that they have complied with all requirements as per directions of this Court and they have filed necessary Affidavits of compliance in the Court. Moreover, Petitioner Company undertakes to comply with all statutory requirements, if any, as required under the Companies Act, 1956/2013 and the Rules made thereunder. The said undertaking is accepted.
9. The Official Liquidator has filed his report on 14th December 2015 stating therein that the affairs of the Transferor Company have been

conducted in a proper manner and that the Transferor Company may be ordered to be dissolved.

10. The Regional Director has filed his Affidavit on 17th November 2015, *inter alia*, stating therein that save and except as stated in paragraphs 6 (a) & (b) of the said Affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraphs 6 (a) & (b) of the said Affidavit, the Regional Director has stated that :

“6. That the Deponent further submits that:-

a) Clause 11.5 of the Scheme provides for adjustment for differences in Accounting Policies between Transferor Company and Transferee Company. In this regard, it is submitted that in addition to the compliance of Accounting Standard – 14, the Transferee Company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standard such as AS-5 etc.

b) That the Deponent further submits that the Tax issue if any arising out of this scheme shall be subject to final decision of Income Tax Authority and approval of the scheme by Hon’ble High Court may not deter the Income Tax Authority to scrutinize the tax returns filed by the petitioner company after giving effect to the amalgamation. The decision of the Income Tax Authority is binding on the petitioner company.”

11. As far as the objection of the Regional Director in paragraph 6(a) of his affidavit is concerned, the Transferee Company through its advocate undertakes that the Transferee Company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standard.
12. So far as the objection of the Regional Director as stated in paragraph 6(b) of his Affidavit is concerned, learned advocate submits that the Petitioner Company and the Transferee Company shall be bound to comply with all applicable provisions of the Income Tax Act and all tax issues arising out of the Scheme will be met and answered in accordance with law.
13. The Learned Counsel for Regional Director on instructions of Mr. M. Chandanamuthu, Joint Director, Legal in the Office of the Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai, states that they are satisfied with the undertakings and assurance given by the Petitioner Company through their advocate. In view thereof, the undertakings are accepted.
14. From the material on record, the Scheme appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy.
15. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petition No.541 of 2015 filed by the Transferor Company is made absolute in terms of prayer clauses (a), and (b).
16. The Transferee Company to lodge a copy of this order along with the Scheme duly authenticated by the Company Registrar, High Court, Bombay, with the concerned Superintendent of Stamps, for

the purpose of adjudication of stamp duty payable, if any, on the same within 60 days from the date of this order.

17. Petitioner Company and Transferee Company are directed to file/lodge a copy of this order along with the Scheme duly authenticated by the Company Registrar, High Court, Bombay, with the concerned Registrar of Companies, electronically, along with E-Form INC-28, in addition to physical copy, as per the relevant provisions of the Companies Act 1956/ 2013, whichever is applicable.
18. The Petitioner to pay costs of Rs.10,000/- each to the Regional Director, Western Region, Mumbai and to the Official Liquidator, High Court, Bombay. Costs to be paid within four weeks from the date of the order.
19. Filing and issuance of the drawn up order is dispensed with.
20. All concerned regulatory authorities to act on copy of this order along with the Scheme duly authenticated by the Company Registrar, High Court (O. S.), Bombay.

(K.R. SHRIRAM, J.)

CERTIFICATE

I certify that this Order uploaded is a true and correct copy of original signed order.

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